

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Glenn R. Funk)
Map 132-07-0, Parcel 7.00) Davidson County
Residential Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$225,000	\$594,000	\$819,000	\$204,750

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on May 30, 2006 in Nashville, Tennessee. In attendance at the hearing were Michael D. Rohling, Esq. for the appellant, and Davidson County Property Assessor's representatives Dennis Donovan, MAI and Jason Poling.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 4214 Franklin Road in Nashville, Tennessee.

The taxpayer contended that subject property should be valued at \$576,600. In support of this position, the taxpayer argued that subject property is comparable to the home located at 4711 Franklin Road which sold for \$530,000 on April 27, 2005. The taxpayer maintained subject property should be appraised consistent with that sale.

The assessor contended that subject property should be valued at \$812,600. In support of this position, three comparable sales were introduced into evidence. Mr. Poling asserted that the comparables support a value indication for the subject of \$812,600. In addition, Mr. Poling argued that the property located at 4711 Franklin Road is inferior to the subject as evidenced by its "B" grade construction rating. The assessor has assigned the subject and three comparables a far superior "X" grade rating. Finally, Mr. Poling noted that Mr. Funk took out a \$100,000 building permit in March of 2000.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$812,600 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the comparable sale relied on by Mr. Funk cannot provide a basis of valuation for any of several reasons. First, January 1, 2005 constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a). The administrative judge finds the sale occurred approximately five (5) months after the assessment date and is technically irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that “[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events.” Final Decision and Order at 3. Second, one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

The administrative judge finds that the sales introduced by the assessor of property support a much higher indication of market value. Third, the administrative judge finds that in order to have probative value, comparable sales must be adjusted. As stated by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992):

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. The administrative judge finds that Mr. Poling adjusted his comparable sales. The administrative judge finds that the taxpayer made no attempt to adjust the sole comparable which constituted the basis for his contention of value.

Based upon the foregoing, the administrative judge would normally affirm the current appraisal of \$819,000 based upon the presumption of correctness attaching to the decision of the Metropolitan Board of Equalization. In this case, however, the administrative judge finds the modest reduction in value recommended by the assessor of property constitutes the upper limit of value.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$225,000	\$587,600	\$812,600	\$203,150


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 1st day of June, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Glenn R. Funk, Esq.
Michael D. Rohling, Esq.
Jo Ann North, Assessor of Property